

## **A-6318 (a&b) (Variance Requests)**

Construct a new house:

(a) the proposed soffit and gutter of which would encroach a maximum of three feet, eight inches (3'-8"); and

(b) with a portico over a stoop and two treads, which would encroach a maximum of seven feet, seven inches (7'-7")

forward of the twenty-five (25) foot front building restriction line.

Mr. Brendan O'Neill, Sr.  
106 Newlands Street\*

\*This address reflects a re-subdivision of the property formerly known as 104 Newlands Street, previously recorded as Lots 12, 13 and Part of 14 in Block 46, into two properties: Lot 13 and Part of Lot 14 in Block 46, now known as 106 Newlands Street; and Lot 12 in Block 46, known as 104 Newlands Street.

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CHEVY CHASE VILLAGE  
BOARD OF MANAGERS  
JUNE 10, 2013 MEETING

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STAFF INFORMATION REPORT

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TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 6/6/2013

SUBJECT: HEARING OF APPEAL CASE NO. A-6318 (A & B) VARIANCE REQUESTS  
MR. BRENDAN O'NEILL, SR., 106 NEWLANDS STREET<sup>1</sup>  
CONSTRUCT A NEW HOUSE:  
(A) THE PROPOSED SOFFIT AND GUTTER OF WHICH WOULD ENCROACH A MAXIMUM OF THREE FEET, EIGHT INCHES (3'-8"); AND  
(B) WITH A PORTICO OVER A STOOP AND TWO TREADS, WHICH WOULD ENCROACH A MAXIMUM OF SEVEN FEET, SEVEN INCHES (7'-7")  
FORWARD OF THE TWENTY-FIVE (25) FOOT FRONT BUILDING RESTRICTION LINE.

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CASE SYNOPSIS: The Applicant requests a variance to construct a new house on an empty lot. The front wall of the proposed house would align with the twenty-five (25) foot front building restriction (and covenant setback) line; **the eave, gutter and portico would encroach forward of the twenty-five (25) foot front building restriction (and covenant setback) line.**

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code § 8-17 (c) states:

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"That no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises; and that no stable, carriage-house, shed, or outbuilding shall be erected except on the rear of said premises."

FACTUAL AND BACKGROUND INFORMATION:

There was a house on the property previously known as 104 Newlands Street (prior to the re-subdivision) that was approved for demolition in Case W-1 and Special Permit Request A-5256 (a & b) in July of 2007. (The "W" refers to the fact that the applicants requested a waiver from the application of the

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<sup>1</sup> This address reflects a re-subdivision of the property formerly known as 104 Newlands Street, previously recorded as Lots 12, 13 and Part of 14 in Block 46, into two properties: Lot 13 and Part of 14 in Block 46, now known as 106 Newlands Street; and Lot 12 in Block 46, known as 104 Newlands Street.

The proposed project is at 106 Newlands Street, upon which there is currently no house; 104 Newlands Street is owned by others and is not being developed at this time.



moratorium on the issuances of demolition permits that was in effect at that time to permit the demolition of the previously existing main residence and detached garage.)

The front wall of the previous house encroached six (6) inches forward of the front BRL. A front porch roof on that house encroached an additional twelve (12) feet forward of the front BRL for a maximum total encroachment of twelve feet, six inches (12'-6") forward of the front twenty-five (25) foot BRL (see photos).



Figure 1: View of the house previously occupying 104 Newlands Street. The front wall of the house encroached six (6) inches forward of the front BRL and the front porch encroached an additional twelve (12) feet forward of the front BRL. The lot has since been re-subdivided to 106 Newlands Street (the Subject Property) and 104 Newlands Street (abutting to the west). There is no house on either lot at this time.



Figure 2: View of proposed site of 106 Newlands Street.

The front wall of the proposed house would align with the front twenty-five (25) foot front BRL. The proposed soffit and gutter would encroach three feet, eight inches (3'-8") and the portico over the stoop and treads would encroach seven feet, seven inches (7'-7") forward of the front BRL.

Two of three houses on the south side of this block of Newlands Street encroach forward of the front BRL; the soffits and gutters encroach farther (see survey provided by Applicant); two have uncovered raised stoops that encroach forward of the front BRL (see photos provided by the Applicant).

Two of the three houses on the north side of the block encroach forward of the front BRL. One has a covered porch and one has a portico that encroach forward of the front BRL; the third has an uncovered stoop that encroaches forward of the front BRL.

In previous cases involving covenant setbacks and front building line restrictions, the Board has found that the covenants were not enforceable in the following circumstances:

- 1) Where uncovered steps and stoops are installed as a matter of necessity to address the change in elevation from the ground to the entrance of a house, and which steps and stoops are the minimum necessary to provide reasonable access, these steps and stoops are not considered structures for the purposes of the covenants.
- 2) When uncovered steps and stoops were constructed at the time that the covenants applicable to the property were placed, or shortly thereafter, it was presumed that the covenant authors did not intend those protrusions to be classified as "structures" for the purposes of the covenants.
- 3) Where a large percentage of properties on the same block had encroachments or projections of a certain type forward of the front building and covenants restriction line it was presumed that the covenant authors did not intend those encroachments or protrusions to be classified as "structures" for the purposes of the covenants.
- 4) When the proposed encroachment does not expand an existing encroachment.

Village regulations limit lot coverage to a maximum of 35%. The proposed lot coverage of the house and garage is 28%.

The arborist has approved removal of one tree, in the public right-of-way, at the location of a new driveway. The arborist has prepared a tree protection plan for the construction of the proposed house and detached garage. There are no other trees over the threshold for requiring a permit proposed for removal on the property. The Applicant states he will relocate smaller plantings on the property to accommodate the proposed house and garage.

To date there have been two letters received from abutting neighbors in support of the project and no letters of objection received.

Applicable Fees: Building Permit Application: \$5,400 (new house and detached garage); Variance Application Fee: \$300; Tree Protection Plan: \$250 TOTAL: \$5,950.

#### RELEVANT PRECEDENTS:

Recent precedents for porticos, stoops and steps that encroach forward of the twenty-five (25) foot front building restriction line include:

In May 2005 Mr. & Mrs. Justin Bausch of 12 East Lenox Street were **granted a variance to extend** the *uncovered steps* leading to the front porch. In the Bausch case the covenants were worded to prohibit “any stable, carriage houses or shed” forward of the twenty-five (25) foot front building restriction line, rather than the more standard language prohibiting “structure[s] of any description” forward of that setback. In December of 2010, Mr. & Mrs. Robert Maruszewski of 127 Grafton Street were **granted a variance to enlarge** a non-conforming *uncovered* stoop which would encroach five feet, six inches (5’-6”) forward of the twenty-five (25) foot front building restriction and covenant setback line, an additional two feet, eleven inches (2’-11”) farther than the existing stoop. In January of 2011 the same applicants were **denied a variance to construct** a *portico* over the previously approved stoop and steps. In January of 2011, Ms. Joanne Kyros and Mr. Thomas Schaufelberger were granted multiple variances to extend existing encroachments in the west (side) yard of their property pertaining to an addition as well as **granted a variance to construct** an *uncovered stoop with three treads* that would encroach five (5) feet forward of the front building restriction and covenant setback line, an additional two (2) inches farther than the existing treads. The applicants were **denied permission to construct** a *roof* over the proposed stoop that would encroach three (3) feet forward of the front building restriction line. In December 2010, Mr. Gregory L. Dixon and Ms. Susan F. Dixon, Co-Trustees of the Gregory L. Dixon Revocable Trust and the Susan F. Dixon Revocable Trust, of 5500 Montgomery Street, were **granted a variance to expand** their *uncovered* front stoop that would extend three (3) feet forward of the twenty-five (25) foot front building restriction and covenant setback line. In February of 2012, Mr. & Mrs. Andrew Marino, of 11 Primrose Street, were **granted a variance to relocate and construct** non-conforming *uncovered* front steps, leading to a covered porch, both of which were forward of the twenty-five (25) foot front building restriction and covenant setback line. The proposed steps encroach twelve feet, eight inches (12’-8”) forward of this twenty-five (25) foot front setback line, an additional ten (10) inches beyond the existing steps. In April of 2012 Mr. & Mrs. D. Blake Bath were **granted a variance to reconstruct** the *uncovered front steps and add an additional step* leading from the front walkway to the front porch forward of the twenty-five (25) foot front building restriction and covenant setback line. In May of 2012 Dr. & Mrs. Charles Bahn of 118 Hesketh Street were **granted a variance to reconstruct** the *uncovered* front steps



from the front walkway to the front porch, adding one tread, a portion of which would be located forward of the twenty-five (25) foot front building restriction and covenant setback line. In June of 2012, Dr. & Mrs. Jeffrey Shuren were **granted a variance to reconstruct** *uncovered steps* that would extend an additional one foot, one inch (1'-1") beyond the existing steps for a maximum encroachment of six feet, eight inches (6'- 8") forward of the twenty-five (25) foot front building restriction line. On December 10, 2012 the Chevy Chase Village Board of Managers **considered** the request of Mr. & Mrs. Steven Sprenger of 5501 Park Street for a **variance to construct** *uncovered* treads leading to a front stoop in the front (Park Street) yard which would encroach forward of the front building restriction line. A motion to approve the request for a variance failed; therefore, construction of the proposed treads was **denied** per the Village Manager's decision dated October 25, 2012. In that case there had not previously existed an encroachment forward of the front BRL and covenant setback line at the property nor was there an established encroachment throughout the rest of that block of Park Street. In March 2013, Mr. & Mrs. Alex Sternhell of 27 Primrose Street were **granted a** variance to reconfigure a pair of existing front steps that would encroach forward of the twenty-five (25) foot front building restriction line.

**FINDINGS REQUIRED:**

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in an unwarranted hardship and injustice to the owner.
2. The proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and
3. Except for variances from the requirements of Sections 8-22 [fences], 8-26 [driveways] or Article IV [public rights-of-way] of the Village Regulations, the structure authorized by the proposed variance would not violate any covenant applicable to the property.

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**Draft Motions**

I move to direct staff to draft a decision **APPROVING/DENYING** the variance request a) to construct a new house the proposed soffit and gutter of which would encroach a maximum of three feet, eight inches (3'-8") forward of the twenty-five (25) foot front building restriction line in case A-6318 (a), based on the findings that ...

I move to direct staff to draft a decision **APPROVING/DENYING** the variance request b) to construct a new house with a portico over a stoop and two treads, which would encroach a maximum of seven feet, seven inches (7'-7") forward of the twenty-five (25) foot front building restriction line in case A-6318 (b), based on the findings that ...

**CHEVY CHASE VILLAGE  
NOTICE OF PUBLIC HEARING**

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Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 10<sup>th</sup> day of June, 2013 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-6318 (a&b)  
MR. BRENDAN O'NEILL, SR.  
106 NEWLANDS STREET\*  
CHEVY CHASE, MARYLAND 20815**

The applicant seeks a variance from the Board of Managers pursuant to Section 8-11 of the Chevy Chase Village Building Code to construct a new house:

- (a) the proposed soffit and gutter of which would encroach a maximum of three feet, eight inches (3'-8"); and
- (b) with a portico over a stoop and two treads, which would encroach a maximum of seven feet, seven inches (7'-7")

forward of the twenty-five (25) foot front building restriction line.

**The Chevy Chase Village Code § 8-17 (c) states:**

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) or you may contact the office for this information to be mailed to you.

This notice was mailed to abutting and confronting property owners on the 30<sup>th</sup> day of May, 2013.

**Chevy Chase Village Office  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815  
301-654-7300**

\*This address reflects a re-subdivision of the property formerly known as 104 Newlands Street, previously recorded as Lots 12, 13 and Part of 14 in Block 46, into two properties: Lot 13 and Part of Lot 14 in Block 46, now known as 106 Newlands Street; and Lot 12 in Block 46, known as 104 Newlands Street.

# Chevy Chase Village Building Permit Application

Permit No: 6318

**Property Address:** 104 Newlands

**Resident Name:** Ronald Rosenfeld

Daytime telephone: 703-516-4350

Cell phone:

After-hours telephone:

E-mail: ronald.rosenfeld@gmail.com

**Project Description:**

new single family house with detached garage

☐ Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.

**Primary Contact for Project:**

☐ Resident

☐ Architect

☐ Project Manager

☒ Contractor\*

\*MHIC/MD Contractor's License No. (required):

**Information for Primary Contact for Project (if different from property owner):**

Name: Brendan O'Neill Sr.

Work telephone: 301-840-9310x103

After-hours telephone:

Cell phone: 240-388-7477

E-mail: Brendan O'Neill Sr <boneillsr@oneilldev.com>

**Will the residence be occupied during the construction project?**

☐ Yes ☒ No

If no, provide contact information for the party responsible for the construction site (if different from above):

Name:

Address:

Work telephone:

After-hours telephone:

Cell phone:

E-mail:

**Parking Compliance:**

Is adequate on-site parking available for the construction crews?

☒ Yes ☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons?

☐ Yes ☒ No

**Building Permit Filing Requirements:**  
**Application will not be reviewed until the application is complete**

- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☐ This application form, signed by resident.
- ☐ Boundary Survey
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

*Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.*

*If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.*

*No signs advertising the architect, contractor, or any other service provider may be posted on the work site.*

**I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.**

**Applicant's Signature:** \_\_\_\_\_

**Date:** 4/22/13

*To be completed by Village staff:*

Is this property within the historic district?      Yes ☐      No ☒      Staff Initials: JB  
Date application filed with Village: 4/22/13      Date permit issued: \_\_\_\_\_      Expiration date: \_\_\_\_\_

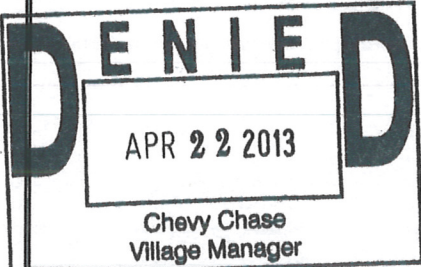


**For Use By Village Manager**

**Application approved with the following conditions:**

**For Use By Village Manager**

**Application denied for the following reasons:**



**Filing Fees**

(due when application submitted)

Permit Application Fee: \$ 5400

(see Permit Fee Worksheet)

☐ \$50.00 (if construction is in the Public Right-of-way)

Tree Preservation Plan Fee:

☒ \$250.00

☐ Not required for this project.

TOTAL Fees:

\$5650.00

**Checks Payable to:**

**Chevy Chase Village  
5906 Connecticut Ave.  
Chevy Chase, MD 20815**

Date: 4/22/13

Staff Signature: [Signature]

**Damage Deposit/Performance Bond**

(due when permit is issued)

☐ \$ \_\_\_\_\_

☐ Waived by Village Manager

Cost of damage to R-O-W:

(calculated at close-out)

Amount of refund:

**Checks Payable to:**

**Chevy Chase Village  
5906 Connecticut Ave.  
Chevy Chase, MD 20815**

Date:

Village Manager Signature:

Date:

Village Manager Signature:



# Chevy Chase Village

## Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

<b>Subject Property:</b> 106 NEWLANDS ST. CHEVY CHASE MD	
<b>Describe the Proposed Project:</b> PROPOSED NEW HOME SHALL BE CONSTRUCTED WITH FRONT PORCH PROTRUDING 7'7" FROM MAIN HOUSE AND SOFFIT OVERHANG PROTRUDING 3'8" INTO 25' FRONT YARD SETBACK.	
<b>Applicant Name(s) (List all property owners):</b> RONALD ROSENFELD	
<b>Daytime telephone:</b> 703-516-4350	<b>Cell:</b>
<b>E-mail:</b> RONALD.ROSENFELD@GMAIL.COM	
<b>Address (if different from property address):</b> TURNBERRY TOWERS SUITE TS10 1881 NORTH NASH ST. ARLINGTON VA 22209	
<b>For Village staff use:</b>	
<b>Date this form received:</b> 5-20-13	<b>Variance No:</b> A-6318 ayb

### Filing Requirements:

#### Application will not be accepted or reviewed until the application is complete

- ☐ Completed Chevy Chase Village Application for a Variance (this form)
- ☐ Completed Chevy Chase Village Building Permit Application
- ☐ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☐ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☐ Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code.
- ☐ Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

### Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: [Signature]

Date: 5/20/13

Applicant's Signature: AGENT FOR RONNIE ROSENFELD

Date: \_\_\_\_\_

**Describe the basis for the variance request (attach additional pages as needed).**

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

SEE ATTACHED APPEAL STATEMENT

Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

DITTO

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

DITTO

*In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.*

<b>Variance Filing Fee</b> <i>Per Village Code Sec. 6-2(a)(24):</i> <input checked="" type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____ <b>Fee Paid:</b>	<b>Checks Payable To:</b> Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815  <b>Date Paid:</b>  <b>Staff Signature:</b>
	<b>Approved to Issue Building Permit per Board Decision Signed by the Board Secretary on:</b>  <b>Date:</b> _____  <b>Signature:</b> _____ <b>Village Manager</b>

# O'NEILL DEVELOPMENT

Brewster-Lipscomb House

11 Russell Avenue • Gaithersburg, MD 20877 • Ofc. 301.840.9310 • FAX 301.840.9371 • www.oneilldev.com

May 20, 2013

## **Appeal Statement:**

We respectfully request approval from the Board of Managers for a Variance to Section 8-17C of the Village Code which states that no structure of any design shall be erected within 25' of the front line of any lot. Specifically we are requesting a variance on our proposed single family residence that we intend to build at 106 Newlands Lot 42 as follows:

1. that the front entry porch, including gutter, be allowed to encroach into the 25' front yard building setback by 7' 7", and
2. that the front roof soffit, including gutter, be allowed to encroach into the 25' front yard building setback by 3' 8".

## **Background:**

O'Neill Development, contract owner of lot 42, 106 Newlands St. Chevy Chase, MD, plans to construct a home designed by David Jones, on the subject lot. This house will replace a house that was demolished several years ago on that lot.

## **Appeal Statement Support:**

Our request is based on the following:

1. Enforcement of the requirements of Section 8-17C would result in hardship due to the fact that the house would be forced toward the rear of the lot, further pinching an already tight rear yard. This would negatively affect:
  - a. The marketability for this house to a family with children because of a tighter rear yard
  - b. The storm water management drywells which would barely fit into the remaining available ground in the rear yard thereby potentially causing drainage problems.
  - c. The neighboring house to the rear would suffer diminution in value and enjoyment due to a smaller distance between our two houses.
2. The proposed variance would meet the intent and spirit of the Village Code which is to keep the front façade in line with the rest of the houses on that side of Newlands St. Or conversely, denial of our variance request would create an awkward setback of the proposed house from the neighbors houses whose main facades are all on the 25' setback line (see attached plat)
3. The variance would violate an original covenant applicable to the property but, as stated in the next paragraph (4), there is precedent for encroachment because the previous house on the property violated this covenant.

4. THE PREVIOUS HOUSE ON THIS LOT ENCROACHED ON THE 25' SETBACK. Not only did its main façade encroach on the 25' front yard setback but also its front porch encroached as well (see attached Snyder and Associates building location survey).
5. EVERY SINGLE HOUSE ON THIS BLOCK OF NEWLANDS ENCROACHES INTO THE FRONT YARD SETBACK. (see attached plat):
  - a. Of the 6 existing houses on this block, 2 have their front main facades encroaching in the setback area.
  - b. 3 have soffit encroachments
  - c. All 6 have front porch or stoop encroachments
6. Placement of the porch in the 25' setback area will not block air circulation, or adversely change the character of the property, or create unsafe conditions, or block vistas, or decrease green space.
7. Most of the streets in Chevy Chase have 40, 50 or 60' right of ways. Newlands Street is one of the rare streets in Chevy Chase that has a 100' right of way. Because of this, our proposed house will already be over 60' back from Newlands Street. So the impact of our 7'7" porch encroachment will be minimal in such a wide ROW.
8. Finally it is important to mention that our variance request is not made to build a larger house or increase lot coverage or FAR. Actually our lot coverage, including house and garage, is only 28% or 20% less than what is allowed (35%). Our variance request is made so that we would be in alignment with the other houses on the block, reinforcing the character of the neighborhood.

**Summary:**

It is hoped that the Board will recognize that if the variance is approved, the front facades of all the houses on the south side of Newlands will remain aligned, as was historically the case when the original house existed. Further it is hoped that the Board recognizes that there is precedent for encroachment on this lot because the main house as well as the front porch of the previous house both encroached past the front yard setback. The new house façade will comply with the setback. We are asking for variance for just the soffit overhang and the front porch, thereby improving the condition over the original house on that lot.

Respectfully submitted,

Brendan O'Neill Sr  
O'Neill Development



N.T.S.

## Proposed Site Plan

LANDSCAPING & SMALL TREES

354

355

IRR

EAST 78.58

1-1 1/2" WHC

4" SHC

354

353

9.0'

18" RC

MAPLE

24" PINE

8" SAN. SEW.

355

S1  
TC  
15  
18  
18

ENCROACHMENT

10" P.U.E.

25.0'

GRASS

353.0'

354.7'

355.0'

BUILDING RESTRICTION LINE & E.B.L.

AREAWAY

DS.

3/8

DS.

98

GARAGE FL.=3

8362.9 S.F.

46

PROPOSED HOUSE

FF=355.0  
DE=344.5

10.0'

8.0'

19.6'

24.95'

2 STORY BRICK DWELLING WITH BASEMENT

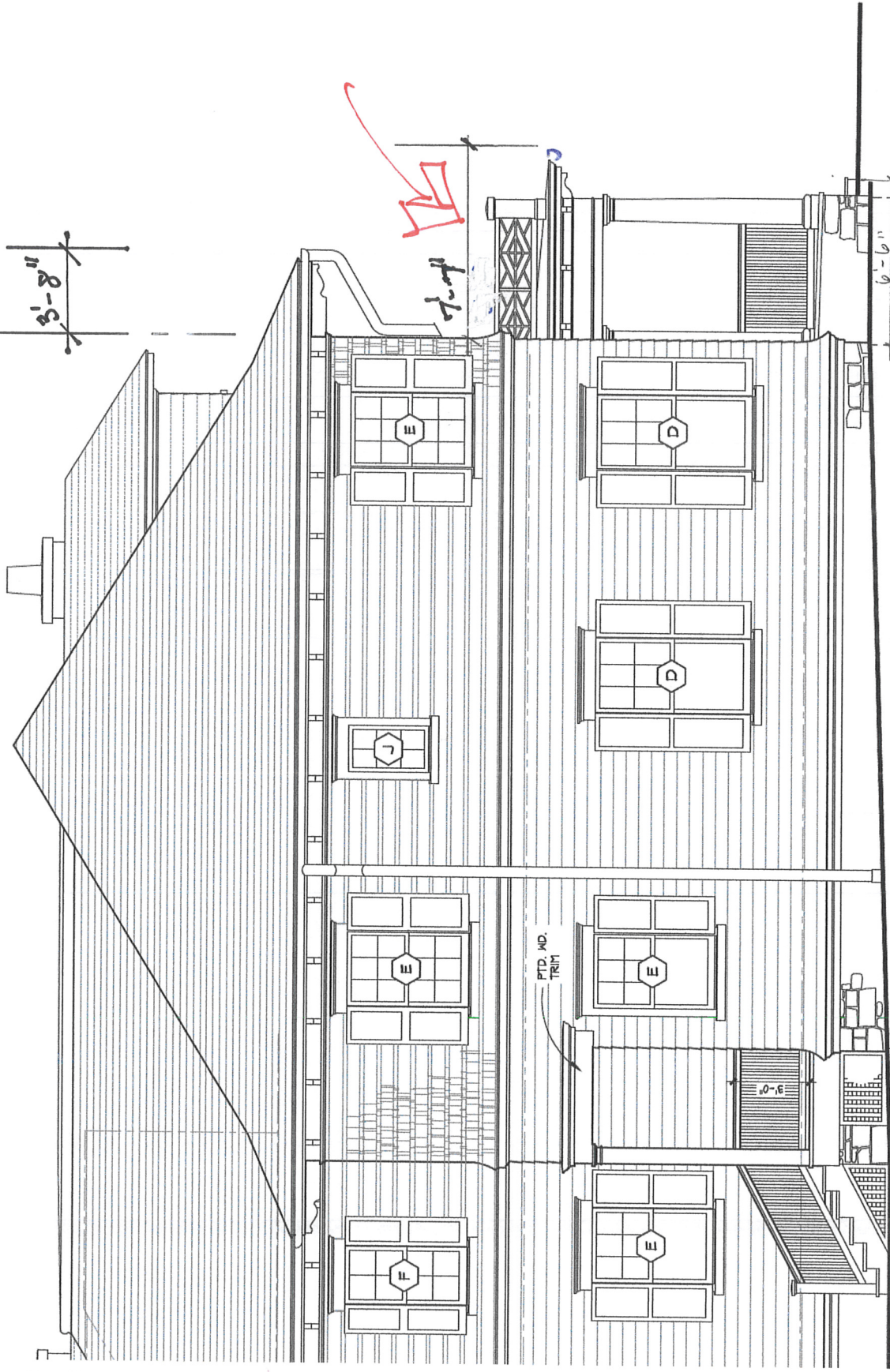
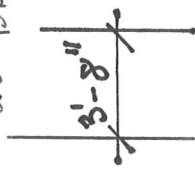
O 21" MAPLE  
O 20" PINE

124.95'

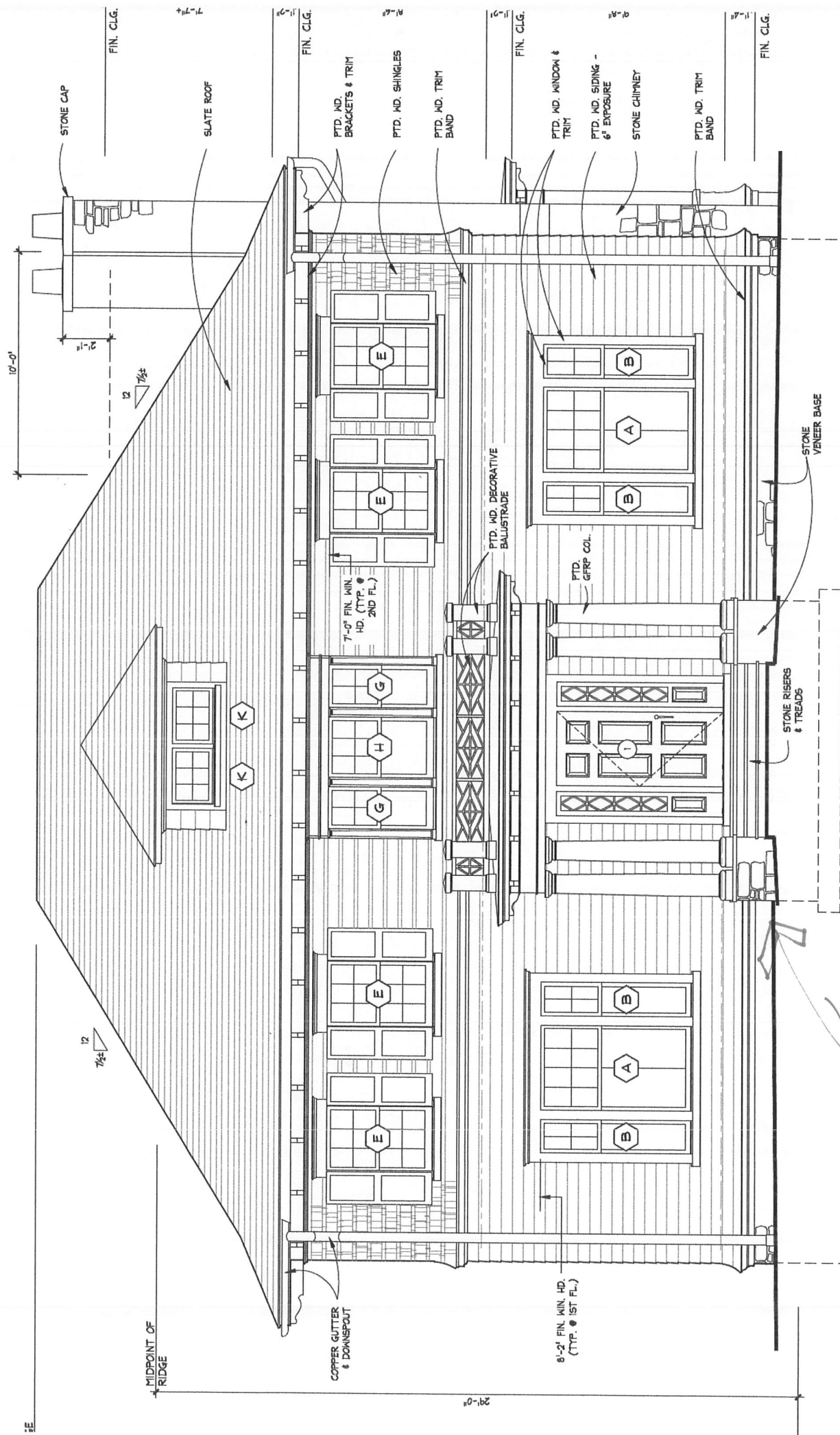
10.9'



25' BRU

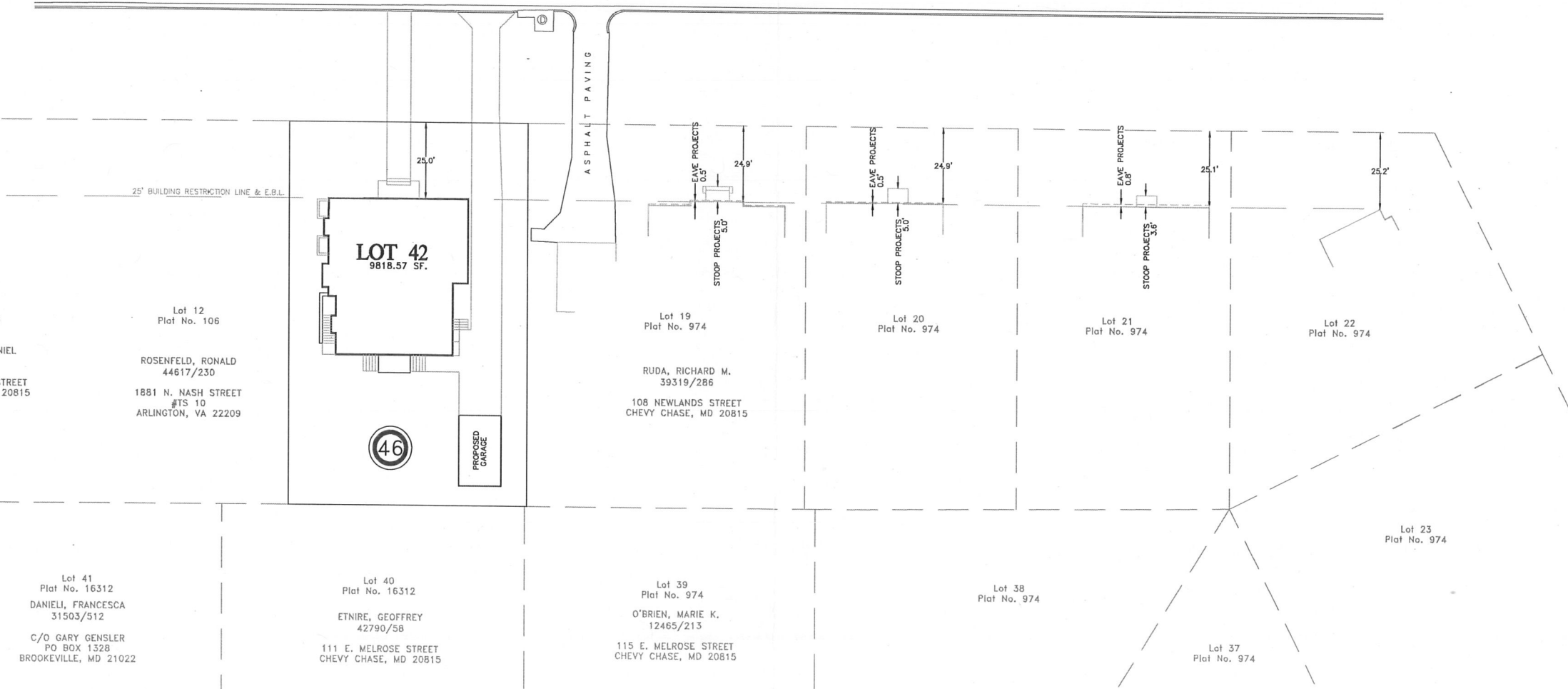
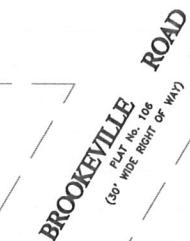


PROPOSED SIDE ELEVATION



Proposed Front Elevation



[illegible]

SCALE	1" = 2'
DRAWN	R.E.
DATE	MAY, 20
SHEET	1 OF
FILE NO.	EXHIBIT

**MADDOX**  
*Engineers & Surveyors, Inc.*  
3204 Tower Oaks Boulevard, Suite 200-A, Rockville, MD 20852  
(301) 782-9001 [www.maddoxinc.com](http://www.maddoxinc.com)

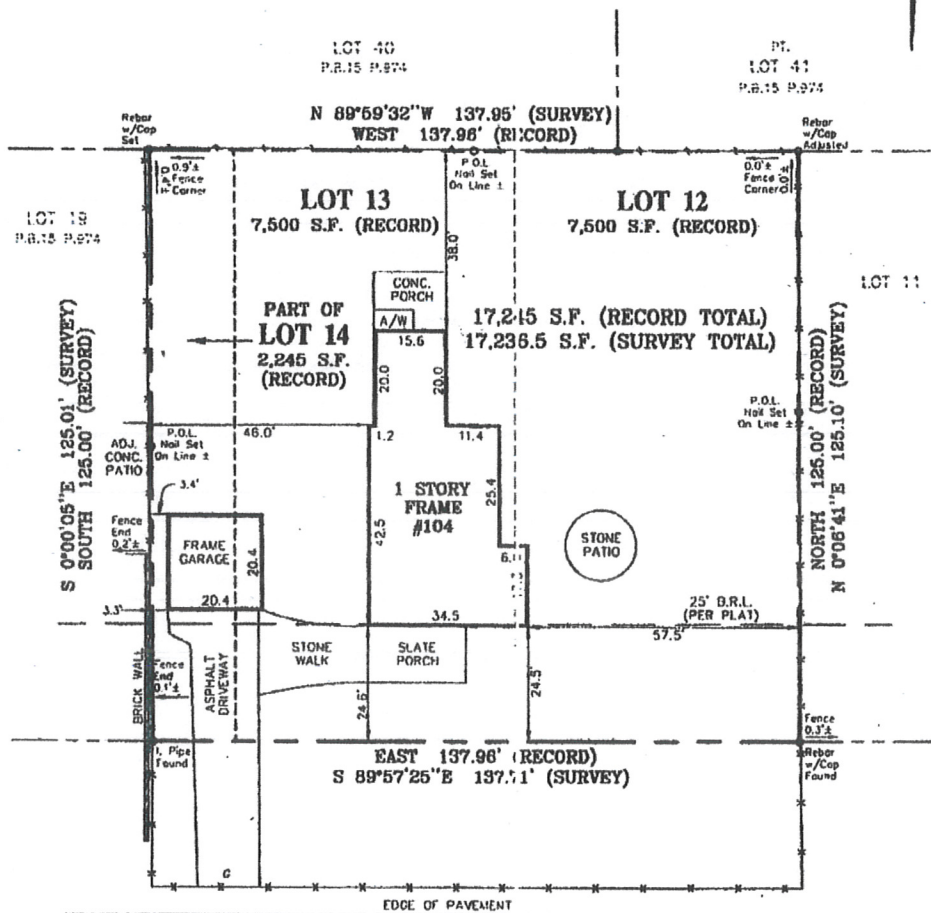
# BUILDING LINE EXHIBIT

104 NEWLANDS STREET, CHEVY CHASE, MARYLAND  
PROPOSED LOT 42  
BLOCK 46, SECTION No.2  
**CHEVY CHASE**  
ELECTION DISTRICT No. 7, CHEVY CHASE VILLAGE  
UNINCORPORATED, CALLED FOR

The information shown hereon has been prepared without benefit of a Title Report, therefore, may not reflect all easements or encumbrances which may affect subject property.

## Notes:

- 1) Flood zone "X" per H.U.D. panel No. 0455D.
- 2) All property corners have been recovered or set and verified per field survey performed: April 17, 2007.



**NEWLANDS STREET**  
(100' R/W PER PLAT)

EDGE OF PAVEMENT

**PREVIOUS HOUSE ON LOT**

PLAT OF SURVEY


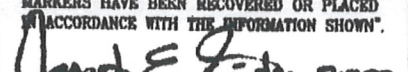
**LOTS 12, 13 & PART OF 14**

**BLOCK 46, SECTION No. 2**

**CHEVY CHASE**

**MONTGOMERY COUNTY, MARYLAND**

All Building Line and Flood Zone Information has been taken from available sources and is subject to interpretation of originator.

SURVEYOR'S CERTIFICATE		REFERENCES			SNIDER & ASSOCIATES LAND SURVEYORS 20270 Goldenrod Lane, Suite 110 Germantown, Maryland 20878 301/948-6100, Fax 301/948-1286	
I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.  MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 22229		PLAT BK.	2		<div>DATE OF LOCATIONS</div> <div>SCALE: 1" = 30'</div>	
		PLAT NO.	106			
		LIBER	32065		<div>WALL CHECK</div> <div>HSE. LOC.: 3-13-07</div> <div>PROP. CORRS.: 4-17-07</div>	
FOLIO	306	<div>JOB NO.: 07-1381B</div>				



# SUBJECT PROPERTY PHOTO ADDENDUM

Borrower:	File No.: 07020802
Property Address: 104 Newlands Street	Case No.:
City: Chevy Chase	State: MD Zip: 20815
Lender:	



**FRONT VIEW OF  
SUBJECT PROPERTY**

Appraised Date:  
Appraised Value: \$



**REAR VIEW OF  
SUBJECT PROPERTY**



**STREET SCENE**















April 22, 2013

Board of Managers  
c/o Ellen Sands, Permit and Code Enforcement Coordinator  
Chevy Chase Village  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815

Re: 106 Newlands Street  
Request for variance on front yard setback

Dear Ellen:

My wife and I live at 111 E. Melrose Street and our house backs up to the rear property line of 106 Newlands. We are impacted more than any other neighbor by the proposed development of a new house at 106 Newlands .

The developer, Mr. Brendan O'Neill, has met with us on several occasions to discuss his plans and seek our input with regard to the house. We appreciate that effort and his responsiveness to our concerns. Despite the impacts on us, we fully support his proposal.

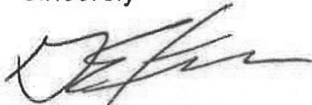
As you know, Mr. O'Neill's variance request seeks to allow the encroachment of the proposed front porch of his new house into the 25' front yard setback. The front facades of all the other homes on Newlands are built in the same manner -- the front stoop/porches encroach into the technical setback area. In addition, the previous house on this lot that Mr. Rosenfeld demolished had a front porch encroachment into the setback area.

These facts aside, moving the house forward would certainly lessen the impact of the new construction on our rear yard and house. We would appreciate it very much if the Board of Managers would allow this encroachment into the setback.

We have confidence in Mr. O'Neill and his plans and ask that the City approve his project as soon as possible.

I would be happy to testify before the Board in support of this variance. Please keep me informed of any upcoming hearings

Sincerely



Geoffrey C. Etnire  
111 E. Melrose Street  
[etnire@yahoo.com](mailto:etnire@yahoo.com)  
Cell phone: 408.799.2992

## CCV Permitting

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**From:** ecs.obrien4@comcast.net  
**Sent:** Wednesday, June 05, 2013 10:13 AM  
**To:** Village, Chevy Chase  
**Subject:** Appeal A-6318 (a&b)

June 5, 2013

Dear Village Manager

I am writing this e-mail since my travel schedule prevents me from attending the rescheduled hearing on Appeal Number A-6318(a&b). As one of the abutting property holders, my wife and I support the application for a variance. The positioning of the new house as proposed by O'Neill Development Company will help to reduce the crowding of the new house toward the rear of the lot and minimize crowding of the new house, our house at 115 East Melrose, and the house next door to us on Melrose to the west.

Please pass this e-mail along to the appropriate staff for consideration when the decision is made.

Thanks

Patrick O'Brien



# CHEVY CHASE VILLAGE

ESTABLISHED 1890

May 30, 2013

Mr. Brendan O'Neill, Sr.  
O'Neill Development  
Brewster-Lipscomb House  
11 Russell Avenue  
Gaithersburg, MD 20877

Dear Mr. O'Neill:

Please note that your request for a variance to construct a new house (a) the proposed soffit and gutter of which would encroach a maximum of three feet, eight inches (3'-8"); and (b) with a portico over a stoop and two treads, which would encroach a maximum of seven feet, seven inches (7'-7") forward of the twenty-five (25) foot front building restriction line is scheduled before the Board of Managers on Monday, June 10, 2013 at 7:30 p.m.

Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,



Ellen Sands  
Permitting and Code Enforcement  
Chevy Chase Village

Enclosures

## CHEVY CHASE VILLAGE

5906 Connecticut Avenue  
Chevy Chase, Maryland 20815

Phone (301) 654-7300

Fax (301) 907-9721

ccv@montgomerycountymd.gov  
www.chevychasevillagemd.gov

## BOARD OF MANAGERS

PATRICIA S. BAPTISTE  
*Chair*

MICHAEL I. DINGER  
*Vice Chair*

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*Assistant Treasurer*

ELISSA A. LEONARD  
*Board Member*

VILLAGE MANAGER  
SHANA R. DAVIS-COOK

LEGAL COUNSEL  
SUELLEN M. FERGUSON

MAILING LIST FOR APPEAL A-6318 (A) & (B)

MR. BRENDAN O'NEILL, SR.  
O'NEILL DEVELOPMENT  
11 RUSSELL AVENUE  
GAITHERSBURG, MD 20877

Adjoining and confronting property owners	
Ms. Laura Rosenfeld Barnes; Mr. Phillip Rosenfeld; & Mr. David Rosenfeld c/o Mr. Ronald Rosenfeld 1881 N. Nash Street #TS 10 Arlington, VA 22209	Mr. & Mrs. Robert S. Morgenstern Or Current Resident 16 Newlands Street Chevy Chase, MD 20815
Mr. & Mrs. Arthur J. Phelan Or Current Resident 6300 Brookville Road Chevy Chase, MD 20815	Mr. & Mrs. Thomas B. Leachman Or Current Resident 103 Newlands Street Chevy Chase, MD 20815
Mr. George A. Boinis Or Current Resident 105 Newlands Street Chevy Chase, MD 20815	Mr. Richard Ruda Or Current Resident 108 Newlands Street Chevy Chase, MD 20815
Ms. Martha L. Dippell & Mr. Daniel L. Korengold Or Current Resident 101 East Melrose Street Chevy Chase, MD 20815	Ms. Francesca Danieli & Mr. Gary Gensler Or Current Resident 105 East Melrose Street Chevy Chase, MD 20815
Ms. Susan Goldberg & Mr. Geoffrey Etnire Or Current Resident 111 East Melrose Street Chevy Chase, MD 20815	Mr. & Mrs. Patrick O'Brien Or Current Resident 115 East Melrose Street Chevy Chase, MD 2081511



I hereby certify that a public notice was delivered to the aforementioned property owners on the 30<sup>th</sup> day of May 2013.

Ellen Sands  
Permitting and Code Enforcement Coordinator  
Chevy Chase Village  
5906 Connecticut Avenue  
Chevy Chase, MD 20815



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R Schwartz Jones  
Director

BUILDING PERMIT

Issue Date: 05/06/2013

Permit No: 625714  
AP Type: BUILDING  
Expires: 05/06/2014  
X Ref.:  
Rev. No:  
ID: 1203202

THIS IS TO CERTIFY THAT: Ronald Rosenfeld  
1881 North Nash Street, TS10  
CHEVY CHASE, MARYLAND 20815

HAS PERMISSION TO: CONSTRUCT SINGLE FAMILY DWELLING

PERMIT CONDITIONS: Single Family

MODEL NAME:

PREMISE ADDRESS: 104 NEWLANDS ST  
CHEVY CHASE, MD 20815-3333

LOT - BLOCK: P14 - 46

ZONE: R-60

ELECTION DISTRICT: 07

BOND NO.:

BOND TYPE:

PERMIT FEE: \$ 45,335.50

SUBDIVISION: CHEVY CHASE SEC 2

PS NUMBER:

TRANSPORTATION IMPACT TAX DUE: \$0.00  
SCHOOLS IMPACT TAX DUE: \$0.00  
SCHOOLS FACILITY PAYMENT DUE: \$0.00  
IMPACT TAXES ARE NOT DUE.

MUST BE KEPT AT JOB SITE

AN APPROVED FINAL INSPECTION IS REQUIRED PRIOR TO USE OR OCCUPANCY

*Every* new one- or two-family dwelling, *every townhouse* and any *attached accessory structure* must be equipped with a *fire sprinkler system*. A separate sprinkler permit is required for the installation of the fire sprinkler system.

Many subdivisions and neighborhoods within Montgomery County have private deed restrictions and covenants regulating building construction. Obtaining a building permit does not relieve the property owner of responsibility for complying with applicable covenants.

NOTICE

THIS APPROVAL DOES NOT  
INCLUDE PLUMBING, GAS PIPING  
OR ELECTRICAL OR  
CONSTRUCTION IN ANY

NOTE

THIS PERMIT DOES NOT INCLUDE  
APPROVAL FOR ANY ELECTRICAL  
WORK. YOU MUST HAVE A SEPARATE  
ELECTRICAL PERMIT TO DO ANY

*Diane R. Schwartz Jones*

Director, Department of Permitting Services



EXAMINED

At the request of William Jett Lauck and Eleanor D. Lauck the following Deed was recorded July 26th, A.D. 1920 at 9.48 o'clock A.M. to wit:-

THIS DEED, Made this 20th day of May in the year one thousand nine hundred and twenty by and between The Chevy Chase Land Company, of Montgomery County, Maryland (a corporation duly organized under and by virtue of the laws of the State of Maryland), party of the first part, and William Jett Lauck and Eleanor D. Lauck, his wife, of the State of Maryland, parties of the second part;

Witnesseth, that the said party of the first part, for and in consideration of the sum of Fifteen hundred and eighteen and 75/100 (1518.75) Dollars to it paid by the said parties of the second part, and of the covenants and agreements of the said parties of the second part as hereinafter set forth, does hereby grant and convey unto the said parties of the second part, in fee simple, as tenants by the entirety, the following described land and premises, with the improvements, easements, and appurtenances thereunto belonging, situate in the County of Montgomery, State of Maryland, namely: Part of lots numbered Six (6), Seven (7), Thirteen (13) and Fourteen (14) in Block numbered Forty-six (46), Section Two (2), "Chevy Chase" a subdivision made by The Chevy Chase Land Company of Montgomery County, Maryland, as per plat of said subdivision recorded in Plat Book No. 2 page 106, of the Land Records of Montgomery County, Maryland being a re-record of the plat of subdivision recorded among said Land Records in Liber J.A. No. 36 folio 61, described by metes and bounds, as follows, namely:-

Beginning for the same on the North line of Melrose Street at a point distant two hundred and eighty five and eighty-eight hundredths (285.88) feet east from the intersection of said line of said street with the easterly line of the Brookville Road (said point, of beginning being the southeast corner of the parcel of land conveyed by the said The Chevy Chase Land Company of Montgomery County, Maryland, to the said William Jett Lauck et ux. by Deed recorded in Liber No. 288 folio 243 et seq. of the Montgomery County, Maryland, Land Records), and running thence East along said line of Melrose Street, Forty-five (45) feet; thence North and at right angles to said street, One hundred and thirty-five (135) feet; thence West and parallel with said street, Forty-five (45) feet, and thence south and at right angles to said street, one hundred and thirty-five (135) feet to Melrose Street, and the place of beginning.

To Have and To Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part, as tenants by the entirety, in fee-simple.

In Consideration of the execution of this Deed, the said parties of the second part, for themselves and for each of them, for their and each of their heirs and assigns, hereby covenant and agree with the party of the first part, its successors and assigns (such covenants and agreements to run with the land) as follows, viz:

1. That all houses upon the premises hereby conveyed shall be build and used for residence purposes exclusively, except stables, carriage-houses, sheds or other outbuildings, for use in connection with such residences, and that no trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon said premises.

2. That no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises; and that no stable, carriage-house, shed, or outbuilding shall be erected except on the rear of said premises.

(\$10.00) Dollars the said  
 Parr party of the second  
 or parcel of ground situate,  
 using the same land which the  
 tin by deed dated the 23  
 Montgomery County, State of  
 bed as follows to wit: All  
 Chevy Chase, Maryland,  
 and Records of Montgomery  
 the said Lot 7 being part of Lot  
 8, 9, 13 and 17 of William  
 at No. 62, Plat Book No. 1.  
 ents thereupon, erected, made,  
 aters, privileges, appurten-  
 se appertaining.  
 parcel of ground and premises  
 conveyed, together with the  
 belonging or appertaining  
 ver of the said Isabel Parr  
 covenant that they will  
 eyed; that they are seized of  
 ey said land; that the said  
 that they have done no act to  
 her assurances of said land as

Joseph Parr. (Seal)

Parr. (Seal)

July 1920, before the subscriber  
 and Mary E. Parr his wife, and  
 official seal this 14th day of  
 Martin.



In the case of corner lots any and all lines bordering upon a street, avenue, or parkway shall be considered a front line.

3. That no house shall be erected on said premises at a cost less than Three Thousand (3000) Dollars.

4. That any house erected on said premises shall be designed for the occupancy of a single family, and no part of any house or of any structure appurtenant thereto shall be erected or maintained within five (5) feet of the side lines of premises hereby conveyed, nor within (10) ten feet of the nearest adjacent house.

5. That a violation of any of the aforesaid covenants and agreements may be enjoined and the same enforced at the suit of The Chevy Chase Land Company, of Montgomery County, Maryland, its successors and assigns (assigns including any person or person deriving title mediately or immediately from said Company to any lot or square, in the Section of the Subdivision of which the land hereby conveyed forms a part).

And the said party hereto of the first part hereby covenants to warrant specially the property hereby conveyed, and to execute such further assurances of said land as may be requisite.

In Testimony Whereof, on the day and year first hereinbefore written, the said The Chevy Chase Land Company, of Montgomery County, Maryland, has caused these presents to be signed with its corporate name by Edward J. Stellwagen, its President, attested by George E. Fleming its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint George E. Fleming its true and lawful Attorney-in-fact, for it and in its name, place and stead to acknowledge these presents as its act and deed before any person or officer duly authorized to take such acknowledgment, and to deliver the same as such.

The Chevy Chase Land Company, of  
Montgomery County, Maryland.

The Chevy Chase Land  
Co. of Montgomery Co.,  
Maryland.

By: Edward J. Stellwagen.  
President.

Attest:

George E. Fleming, Secretary.

(Internal Revenue \$2.00)

District of Columbia, to wit:

I, Albert W. Sicouss, a Notary Public in and for the said District of Columbia, do hereby certify that George E. Fleming who is personally well-known to me to be the person named as Attorney-in-fact in the foregoing and annexed Deed, dated the 20th day of May 1920, to acknowledge the same, personally appeared before me in said District of Columbia, and as Attorney-in-fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid Deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

EXAMINE

Mailed to  
The J. Fisher  
Co. Wash.  
D.C.

1-12-21